

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re: ANCISO, FERNANDO

Case No. 20-30632

Debtor(s)

Judge MARY ANN WHIPPLE

Patti Baumgartner-Novak, Trustee
3015 Navarre Ave., Suite 203
Oregon, OH 43616

Plaintiff

**COMPLAINT FOR RECOVERY OF
PREFERENTIAL PAYMENTS
PURSUANT TO 11 U.S.C 547 AND
550**

v.

Credit Acceptance Corp
c/o Registered Agent:
CSC-Lawyers Incorporating Service
601 Abbot Road
East Lansing, MI 48823

Patti Baumgartner-Novak, Esquire
3015 Navarre Avenue
Suite 203
Oregon, OH 43616
(419)724-2480
(419) 724-2481 FAX
Sup. Ct. #0055295

Defendant(s)

Now comes the Plaintiff Patti Baumgartner-Novak, Trustee by and through counsel, and for her cause of action states and avers as follows:

JURISDICTION AND VENUE

1. That Fernando Anciso (“Debtor”) filed for relief under Chapter 7 of Title 11 of the United States Code on 03/05/2020.
2. That the Plaintiff is the duly appointed Trustee in the bankruptcy of the Debtor.
3. That this Court has jurisdiction of the subject matter and parties to this case pursuant to 28 U.S.C. §1334.

4. That this Court is the proper venue as provided in 28 U.S.C. §1409, pursuant to a General Order entered whereby all cases and all proceedings arising under Title 11 or arising in or related to a case under Title 11, are referred to the bankruptcy judges for this District pursuant to the provisions of 28 U.S.C. §157.

5. The Trustee consents to entry of final orders or judgment by the Bankruptcy Court pursuant to Bankruptcy Rule 7008.

6. That the Defendant Credit Acceptance Corp (“Defendant”) is a foreign corporation authorized to do business in the State of Ohio.

FIRST CAUSE OF ACTION

7. The Plaintiff restates all of her previous allegations as if fully rewritten herein.

8. On or about the ninety (90) days prior to the Debtor filing the bankruptcy, the Defendant garnished monies from the Debtor’s wages in the approximate amount of \$3,013.23 as evidenced by Exhibit “A attached hereto (hereafter the “Preferential Payment”).

9. That this preferential payment was made to the defendant within 90 days of the debtor’s bankruptcy filing in violation of 11 USC §547.

10. That the Defendant is a creditor of the debtor.

11. That the Debtor made the preferential payment to the Defendant on account of an unsecured antecedent debt owed by the debtor.

12. That at the time of the payment the Debtor was insolvent or became insolvent shortly after the Transfer was made.

13. That this preferential payment enables the defendant creditor to receive more than they would have received in a Chapter 7 liquidation, or had the payment not been made, and the preferential payment is therefore avoidable by the Trustee pursuant to 11 USC 547.

SECOND CAUSE

14. The Plaintiff restates all of her previous allegations as if fully rewritten herein.

15. On or about the ninety (90) days prior to the Debtor filing the bankruptcy, the Defendant garnished monies from the Debtor’s wages in the approximate amount of \$3,013.23 as evidenced by Exhibit “A attached hereto (hereafter the “Preferential Payment”).

16. That this transfer is avoidable as a preference pursuant to 11 USC §547 and recoverable by the bankruptcy estate pursuant to the provisions of 11 USC §550.

WHEREFORE, the Plaintiff prays that the preferential payment be avoided pursuant to 11 USC §547 and the Plaintiff be granted judgment against the Defendant, Credit Acceptance Corp, pursuant to 11 USC §550 in the amount of \$3,013.23 and for such other relief as may be just and equitable.

Respectfully submitted,

/s/ Patti Baumgartner-Novak
PATTI BAUMGARTNER-NOVAK

Sandusky Municipal Court

Record Search

Case Information: CVF1900976

Plaintiff(s)**Plaintiff 1:** Credit Acceptance Corporation**Attorney:** W. Richard Yost**D.B.A./A.K.A.:****Address:** 25505 West Twelve Mile Road**C/S/Z:** Southfield, Michigan 48037**Date Served:****Defendant(s)****Defendant 1:** Anciso, Fernando**Attorney:****D.B.A./A.K.A.:****Address:** 1824 Stevenson Street**C/S/Z:** Fremont, Oh 43420**Date Served:** 04/23/2019**Defendant 2:** Bankruptcy 20-30632**Attorney:** Nathan M. Nishiki**D.B.A./A.K.A.:****Address:****C/S/Z:****Date Served:****Miscellaneous Information****Hearing Type:****Filing Date:** 04/09/2019**Hearing Date:****Cause of Action:** MONEY ONLY**Hearing Time:****Presiding Judge:** 20-**Disposition Date:** 06/12/2019**Claim Amount:** \$ 5,256.30**Fines and Costs (this case/charge only)**

Amount Owed	Paid to Date	Balance Due
Local Costs: \$239.51	\$239.51	\$0.00
Sheriff Fees: \$0.00	\$0.00	\$0.00
Computer Fund: \$5.00	\$5.00	\$0.00
Special Projects: \$1.00	\$1.00	\$0.00
Judgment: \$5,678.74	\$3,013.23	\$2,665.51
Sundries: \$857.33	\$857.33	\$0.00
Legal Research: \$0.00	\$0.00	\$0.00
Legal Aid: \$26.00	\$26.00	\$0.00
Miscellaneous: \$2.00	\$2.00	\$0.00

Exhibit "A"

Transactions (this case/charge only)

Total Owed: \$ 6,832.58	Last Payment: 03/18/2020
Paid to Date: \$ 4,167.07	Payment Type: Check
Balance Due: \$ 2,665.51	Paid By: Amcor Packaging
Deposit Amount: \$ 0.00	Receipt #: 373332
Deposit: \$ 0.00	Interest Rate:
Refunded:	Interest From:
Deposit: \$ 0.00	
Available:	

Disposition Information

Judgment Date:	Interest From:
Disposition:	Interest Rate:
Amount: \$ 0.00	Satisfied:

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Record Search

Docket Entries: CVF1900976

03/30/2020

CHECK NUMBER 10988 WRITTEN TO ANCISO, FERNANDO
\$ 451.28 OF WHICH WAS FROM THIS CASE

CHECK NUMBER 10988 WRITTEN TO ANCISO, FERNANDO
\$ 406.05 OF WHICH WAS FROM THIS CASE

03/18/2020

SUNDRIES (BANKRUPTCY-FUNDS RETURNED TO DEF)406.05
PAYMENT - RECEIPT NO. 373332 IN THE AMOUNT OF \$ 406.05

03/17/2020

NOTICE OF CHAPTER 7 BANKRUPTCY CASE FILED BY U.S.
BANKRUPTCY COURT. DEFENDANT FILED A CHAPTER 7 BANKRUPTCY
ON 03/05/2020 # 20-30632
NOW COMES THE COURT AND HEREBY GRANTS THE AUTOMATIC STAY
IMPOSED IN THE ABOVE CAPTIONED CASE. THE DEFENDANT FILED A
CHAPTER 7 BANKRUPTCY ON 3/05/2020 . CASE NO. 20-30632

03/16/2020

REQUEST FOR GARN RELEASE FILED. RELEASE ISSUED TO:
AMCOR RIGID PACKAGING, ATTN: PAYROLL-MAILED

03/05/2020

JUDGMENT COMMISSION \$ 9.03
PAYMENT - RECEIPT NO. 372618 IN THE AMOUNT OF \$ 451.28
LOCAL COURT COSTS (REC'D GARN REL-FUNDS RET TO DEF)-9.03
PER ATTY
PAYMENT ERROR OF \$ -451.28
SUNDRIES (GARN RELEASE ISSUED-FUNDS RET TO DEF)451.28
PAYMENT - RECEIPT NO. 373129 IN THE AMOUNT OF \$ 451.28

02/27/2020

CHECK NUMBER 10917 WRITTEN TO CARLILE PATCHEN & MURPHY L L P
\$ 499.22 OF WHICH WAS FROM THIS CASE
CHECK NUMBER 10917 WRITTEN TO CARLILE PATCHEN & MURPHY L L P
\$ 355.07 OF WHICH WAS FROM THIS CASE
CHECK NUMBER 10917 WRITTEN TO CARLILE PATCHEN & MURPHY L L P
\$ 465.40 OF WHICH WAS FROM THIS CASE

✓ **02/20/2020**

JUDGMENT COMMISSION \$ 9.50
PAYMENT - RECEIPT NO. 371931 IN THE AMOUNT OF \$ 474.90

02/12/2020

JUDGMENT COMMISSION \$ 7.25

✓ PAYMENT - RECEIPT NO. 371445 IN THE AMOUNT OF \$ 362.32

02/03/2020

JUDGMENT COMMISSION \$ 10.19

✓ PAYMENT - RECEIPT NO. 370754 IN THE AMOUNT OF \$ 509.41

01/30/2020

CHECK NUMBER 10839 WRITTEN TO CARLILE PATCHEN & MURPHY L L P
\$ 728.89 OF WHICH WAS FROM THIS CASE

CHECK NUMBER 10839 WRITTEN TO CARLILE PATCHEN & MURPHY L L P
\$ 584.55 OF WHICH WAS FROM THIS CASE

01/08/2020

JUDGMENT COMMISSION \$ 11.93

✓ PAYMENT - RECEIPT NO. 369494 IN THE AMOUNT OF \$ 596.48

01/06/2020

JUDGMENT COMMISSION \$ 14.88

✓ PAYMENT - RECEIPT NO. 369265 IN THE AMOUNT OF \$ 743.77

12/26/2019

CHECK NUMBER 10770 WRITTEN TO CARLILE PATCHEN & MURPHY L L P
\$ 380.10 OF WHICH WAS FROM THIS CASE

12/18/2019

✓ JUDGMENT COMMISSION \$ 7.76

PAYMENT - RECEIPT NO. 368440 IN THE AMOUNT OF \$ 387.86

11/27/2019

GARN ANSWER FILED BY EMPLOYER; DEBTOR IN THEIR EMPLOY;
NO OTHER DEDUCTIONS

11/14/2019

CERTIFIED MAIL # 9214 7000 7691 9700 2757 85 SERVED TO
AMOR RIGID PACKAGING, RE: GARNISHMENT
SIGNED BY CHRISTINE STAMP

11/08/2019

GARNISHMENT WAS ISSUED BY CERT MAIL
TO: AMOR RIGID PACKAGING
CERT MAIL # 9214 7000 7691 9700 2757 85
9290 9901 7631 1704 2931 70

11/04/2019

GARNISHMENT FILING \$110.00

JUDGMENT \$5678.74

GARNISHMENT FILED \$5678.74

LOCAL COURT COSTS (CERTIFIED MAIL FEE)10.00

PAYMENT - RECEIPT NO. 366069 IN THE AMOUNT OF \$ 120.00

06/12/2019

MOTION FOR DEFAULT JUDGMENT; SUPPORTING MEMORANDUM
AFFIDAVIT AND CERTIFICATION OF SERVICE

JUDGMENT: FOR CREDIT ACCEPTANCE CORPORATION IN THE AMOUNT
OF \$5256.30. INTEREST FROM 08/17/2018
AT THE RATE OF 5.000%

JUDGMENT: DEFAULT ANCISO, FERNANDO IN THE AMOUNT
OF \$5256.30. INTEREST FROM 08/17/2018
AT THE RATE OF 5.000%

04/23/2019

CERTIFIED MAIL # 9214 7000 7691 9700 2533 56 SERVED TO
ANCISO, FERNANDO, RE: CIVIL SUMMONS